

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICIA ASHTON DERGES,

Defendant.

Case No. 21-03016-01-CR-S-BCW

**MOTION OF THE UNITED STATES FOR AN AMENDED PRELIMINARY
ORDER OF FORFEITURE, WITH SUPPORTING SUGGESTIONS**

The United States of America, by its undersigned counsel, respectfully submits its Motion for an Amended Preliminary Order of Forfeiture in the above-entitled case for the purpose of including a money judgment representing proceeds obtained by the defendant as a result of offenses for which the defendant was found guilty.

SUPPORTING SUGGESTIONS

1. In the Forfeiture Allegation contained in the Superseding Indictment in this case, the United States sought forfeiture of all property, real and personal, obtained directly or indirectly, as a result of the offenses alleged in Counts One through Eight and Twenty-One through Twenty-Three of the Superseding Indictment. Specifically, the United States sought a monetary judgment that constitutes the sum of the aggregate proceeds in United States currency of the fraudulent scheme that resulted directly from the commission of the offenses alleged in Counts One through Eight and Twenty-One through Twenty-Three of the Superseding Indictment, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c). (D.E. 18.)

2. On April 13, 2021, an Amended Notice and Bill of Particulars for Forfeiture of Property was filed by the United States giving notice that it is seeking forfeiture of the following property: approximately \$287,565.33 in United States currency seized from a Great Southern Bank Account, ending in 4503, in the name of Ozark Valley Medical Clinic LLC, on or about March 24, 2021, an account controlled by Patricia Ashton Derges as proceeds directly traceable to the violations alleged in Counts One through Eight and Twenty-One through Twenty-Three of the Superseding Indictment. (D.E. 27.)

3. On June 28, 2022, a jury found the defendant, Patricia Ashton Derges, guilty of, *inter alia*, Counts One through Seven and Twenty-One through Twenty-Three of the Superseding Indictment. The jury also determined that the United States established the requisite nexus between the above-described property and the offenses committed by the defendant. (D.E. 182.)

4. On August 3, 2022, the United States filed a Motion for Preliminary Order of Forfeiture. (D.E. 187). The motion inadvertently omitted a request for a monetary judgment against the Defendant based upon the jury's finding of guilt as to Counts One through Seven and Twenty-One through Twenty-Three. Pursuant to the motion by the United States, on August 23, 2022, this Court entered a Preliminary Order of Forfeiture against the defendant. (D.E. 189).

5. The entry of an Order of Forfeiture in the form of a personal money judgment is specifically authorized by Rule 32.2(b)(1) and (c)(1) of the Federal Rules of Criminal Procedure. Forfeiture money judgments are authorized by Title 21, United States Code, Section 853(o) and (p). *United States v. Johnson*, No. 17-3776, 2020 WL 1845063, at *5 (8th Cir. Apr. 13, 2020) (affirming money judgment based on proceeds of offense); *United States v. Smith*, 656 F.3d 821, 827 (8th Cir. 2011). Once the Order of Forfeiture is entered, the Government may move at any time, pursuant to Rule 32.2(e)(1)(B), to amend the Order to forfeit specific property of the

defendant, having a value up to the amount of the money judgment, as substitute assets.

Johnson, 2020 WL 1845063, at *5, n.5.

6. Therefore, the United States is now seeking to amend the Preliminary Order of Forfeiture to seek forfeiture of a monetary judgment in an amount to be determined by the Court at sentencing.

7. The United States requests that the Court orally announce the final calculated amount of the money judgment at the time of sentencing and that the Court include the final calculated amount of the money judgment in its Judgment and Commitment Order. *See* FED. R. CRIM. P. 32.2(b)(4)(B).

WHEREFORE, the United States respectfully requests that this Court enter an amended preliminary order of forfeiture forfeiting to the United States approximately \$287,565.33 in United States currency seized from a Great Southern Bank Account, ending in 4503, in the name of Ozark Valley Medical Clinic LLC, on or about March 24, 2021, an account controlled by Patricia Ashton Derges. The United States further requests that this Court enter an order directing a money judgment against the defendant Patricia Ashton Derges for the amount of proceeds she obtained as a result of wire fraud.

Respectfully submitted,

Teresa A. Moore
United States Attorney

By

/s/ Shannon T. Kempf
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CERTIFICATE OF SERVICE

I hereby certify that on, September 9, 2022, the foregoing motion was electronically filed with the Clerk of the Court using the CM/ECF system, for electronic delivery to all counsel of record.

/s/ Shannon T. Kempf

Shannon T. Kempf

Assistant United States Attorney